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Attorneys for Plaintiff Abhinav Bhatnagar

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ABHINAV BHATNAGAR,)	
Plaintiff,)	Case No.: Case No. CV07-02669 (CRB)
vs.)	
)	
JASON INGRASSIA, individually and in)	PLAINTIFF'S OPPOSITION TO
his official capacity; COUNTY OF)	DEFENDANT INGRASSIA'S MOTION
CONTRA COSTA; and CITY OF)	TO STRIKE EVIDENCE IN SUPPORT OF
SAN RAMON.)	PLAINTIFF'S MOTION <i>IN LIMINE</i>
)	
Defendants.)	
)	

ARGUMENT

On February 15, 2008, the parties in this case appeared for a case management conference before the Honorable Charles Breyer. At the request of Assistant County Counsel, Gregory Harvey, the parties agreed to submit the present motion for the purpose of facilitating an early settlement of this case. In the interim, Judge Breyer ordered the parties to refrain from conducting any formal discovery. It is this context that Mr. Bhatnagar submitted evidence to support his motion *in limine*. Accordingly, he should not be subject to the stringent evidentiary requirements that would apply to the admission of evidence at trial.

<u>Objection No.</u>	<u>Plaintiff's Evidence</u>	<u>Plaintiff's Response to Objections by Def. Ingrassia</u>
1	Plaintiff's Exhibit 3, at 61:5-8	Plaintiff's do not seek to admit Judge Treat's findings for the purpose of establishing the truth of the judge's findings. For non-hearsay reasons why this evidence is admissible, see Plaintiff's Reply Brief filed on 4/11/08 at Section I.
2	Plaintiff's Exhibit 5	The District Attorney's sworn statement is a party admission (Fed.R.Evid. 801(d)(2)). This statement is also admissible as a business record (Fed.R.Evid. 803(7)) and as a statement against interest (Fed.R.Evid. 804(b)(3)).
3	Plaintiff's Exhibits 10 & 11	Plaintiff's do not seek to admit Judge Kolin's or Judge Stark's findings for the purpose of establishing the truth of those findings. For non-hearsay reasons why this evidence is admissible, see Plaintiff's Reply Brief filed on 4/11/08 at Section I. Pursuant to Fed.R.Evid. 404, the probative value of these findings outweighs any prejudicial impact.
4	Plaintiff's Exhibits 12, 14-16	The letters from Ms. Garrido and Ms. Huang are admissible for the purpose of establishing notice to the municipal defendants of Defendant Ingrassia's misconduct. The letters are not admitted for the purpose of establishing the truth of the statements included in the letters. Pursuant to Fed.R.Evid. 404, the probative value of these letters outweigh any prejudicial impact.
5	Affidavit of Plaintiff Bhatnagar	On April 17, 2008, Plaintiff filed a corrected affidavit, which includes the signature page signed by Plaintiff on March 13, 2008.
6	Affidavit of Jenny Huang, ¶¶ 5, 7, 14, 16, 17-22	Such statements are not admitted for the purpose of establishing the truth of the matters asserted. Proper foundation has been provided and is otherwise not strictly required for the purposes of this motion.
7	Affidavit of Jenny Huang, ¶¶ 18-23	Such statements are not admitted for the purpose of establishing the truth of the matters asserted. Proper foundation has been provided and is otherwise not strictly required for the purposes of this motion. No opinion testimony within the scope of Fed.R.Evid. is included in these statements.

CONCLUSION

For the reasons stated above, Plaintiff respectfully requests that this court issue an order denying in its entirety Defendant Ingrassia's motion to strike evidence in support of Plaintiff's Motion *In Limine*.

Date: April 18, 2008
Oakland, California

JUSTICE FIRST, LLP

Attorneys for Plaintiff Abhinav Bhatnagar

By:

/s/

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